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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

J.V. through his guardian ad litem,
 ANABEL FRANCO; B.K. through his
 guardian ad litem, CYNTHIA
 BROWN; and all other students
 similarly situated,

Plaintiffs,

vs.

POMONA UNIFIED SCHOOL
 DISTRICT; POMONA SPECIAL
 EDUCATION LOCAL PLANNING
 AREA; ANA PETRO, CHRISTINE
 GOENS, KAMERON SHIELDS,
 BEATRIZ KRIVAN, JENNIFER
 YALES, SELENE AMANCIO,
 BRIAN EL MAHMOUD, DANIELLA
 SOTO, MARY GARCIA, CINDY
 GREEN, ELAINE MARKOFSKI,
 SUPERINTENDENT RICHARD
 MARTINEZ in his Official Capacity
 only, DOLORES MURILLO, and
 DOES 1-10,

Defendants.

CASE NO. CV 15-07895 JAK (MRWx)
STIPULATED PROTECTIVE ORDER

Scheduling Conference:

Date: April 11, 2016

Time: 8:30 A.M.

Location: Courtroom 750
 255 East Temple Street, 7th Floor
 Los Angeles, California 90012-3332

1. INTRODUCTION

1.1 PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation maybe warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below, that this Stipulated Protective Order does not entitle them to file confidential information under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission from the court to file material under seal.

1.2 GOOD CAUSE STATEMENT

1.2.1 Plaintiffs

The Plaintiffs in this action are Plaintiff J.V., through his guardian *ad litem*, Anabel Franco; Plaintiff B.K., through his guardian *ad litem*, Cynthia Brown, and all other students similarly situated.

1.2.2 Defendants

The Defendants in this action are Pomona Unified School District (“District”), Pomona Special Education Local Planning Area (“SELPA”), , Christine Goens, Kameron Shields, Beatriz Krivan, Jennifer Yales, Selene Amancio, Brian El Mahmoud, Daniella Soto, Mary Garcia, Cindy Green, Elaine Markofski, Dolores Murillo, and Superintendent Richard Martinez (collectively, “District Defendants”), and Ana Petro (“Defendant Petro”).

1.2.3 Sensitive and Confidential Information

Plaintiffs and Defendants (the “Parties”) anticipate that during discovery in this action they will exchange documents, items, materials, and other information that contain sensitive, confidential, proprietary, and/or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation would be warranted. The plaintiffs are minors, accordingly, the Parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. Such sensitive and confidential information may include, but is not limited to: academic records, educational evaluations, medical information, and individualized education plans.

The parties, as well as third parties whose confidential or private information may be discussed or referred to within these documents, may be harmed if no protective order is entered to protect against the dissemination of such private, confidential information. Disclosure and discovery activity in this action is likely to involve production of such confidential, proprietary, or private information, which warrants special protection from public disclosure and use for any purpose other than prosecuting this litigation.

2. DEFINITIONS

2.1 Action: this pending federal law suit.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

1 2.5 Designating Party: a Party or Non-Party that designates information or
2 items that it produces in disclosures or in responses to discovery as
3 “CONFIDENTIAL.”

4 2.6 Disclosure or Discovery Material: all items or information, regardless of
5 the medium or manner in which it is generated, stored, or maintained (including,
6 among other things, testimony, transcripts, and tangible things), that are produced or
7 generated in disclosures or responses to discovery in this matter.

8 2.7 Expert: a person with specialized knowledge or experience in a matter
9 pertinent to the litigation who has been retained by a Party or its counsel to serve as
10 an expert witness or as a consultant in this Action.

11 2.8 House Counsel: attorneys who are employees of a party to this Action.
12 House Counsel does not include Outside Counsel of Record or any other outside
13 counsel.

14 2.9 Non-Party: any natural person, partnership, corporation, association, or
15 other legal entity not named as a Party to this action.

16 2.10 Outside Counsel of Record: attorneys who are not employees of a party
17 to this Action but are retained to represent or advise a party to this Action and have
18 appeared in this Action on behalf of that party or are affiliated with a law firm which
19 has appeared on behalf of that party, and includes support staff.

20 2.11 Party: any party to this Action, including all of its officers, directors,
21 employees, consultants, retained experts, and Outside Counsel of Record (and their
22 support staffs).

23 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
24 Discovery Material in this Action.

25 2.13 Professional Vendors: persons or entities that provide litigation support
26 services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or
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1 demonstrations, and organizing, storing, or retrieving data in any form or
2 medium)and their employees and subcontractors.

3 2.14 Protected Material: any Disclosure or Discovery Material that is
4 designated as “CONFIDENTIAL.

5 2.15 Receiving Party: a Party that receives Disclosure or Discovery Material
6 from a Producing Party.

7 3. SCOPE

8 The protections conferred by this Stipulation and Order cover not only
9 Protected Material (as defined above), but also (1) any information copied or
10 extracted from Protected Material; (2) all copies, excerpts, summaries, or
11 compilations of Protected Material; and (3) any testimony, conversations, or
12 presentations by Parties or their Counsel that might reveal Protected Material.

13 Any use of Protected Material at trial shall be governed by the orders of the
14 trial judge. This Order does not govern the use of Protected Material at trial.

15 4. DURATION

16 Even after final disposition of this litigation, the confidentiality obligations
17 imposed by this Order shall remain in effect until a Designating Party agrees
18 otherwise in writing or a court order otherwise directs. Final disposition shall be
19 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
20 or without prejudice; and (2) final judgment herein after the completion and
21 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
22 including the time limits for filing any motions or applications for extension of time
23 pursuant to applicable law.

24 5. DESIGNATING PROTECTED MATERIAL

25 5.1 Exercise of Restraint and Care in Designating Material for Protection
26 Each Party or Non-Party that designates information or items for protection under
27 this Order must take care to limit any such designation to specific material that
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1 qualifies under the appropriate standards. The Designating Party must designate for
2 protection only those parts of material, documents, items, or oral or written
3 communications that qualify so that other portions of the material, documents, items,
4 or communications for which protection is not warranted are not swept unjustifiably
5 within the ambit of this Order.

6 Mass, indiscriminate, or routinized designations are prohibited. Designations
7 that are shown to be clearly unjustified or that have been made for an improper
8 purpose (*e.g.*, to unnecessarily encumber the case development process or to impose
9 unnecessary expenses and burdens on other parties) may expose the Designating
10 Party to sanctions.

11 If it comes to a Designating Party's attention that information or items that it
12 designated for protection do not qualify for protection, that Designating Party must
13 promptly notify all other Parties that it is withdrawing the inapplicable designation.

14 **5.2 Manner and Timing of Designations** Except as otherwise provided in
15 this Order (see, *e.g.*, second paragraph of section 5.2(a) below), or as otherwise
16 stipulated or ordered, Disclosure or Discovery Material that qualifies for protection
17 under this Order must be clearly so designated before the material is disclosed or
18 produced.

19 Designation in conformity with this Order requires:

20 (a) for information in documentary form (*e.g.*, paper or electronic
21 documents, but excluding transcripts of depositions or other pretrial or trial
22 proceedings), that the Producing Party affix at a minimum, the legend
23 "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to each page that
24 contains protected material. If only a portion or portions of the material on a page
25 qualifies for protection, the Producing Party also must clearly identify the protected
26 portion(s) (*e.g.*, by making appropriate markings in the margins).

1 A Party or Non-Party that makes original documents available for inspection
 2 need not designate them for protection until after the inspecting Party has indicated
 3 which documents it would like copied and produced. During the inspection and
 4 before the designation, all of the material made available for inspection shall be
 5 deemed "CONFIDENTIAL." After the inspecting Party has identified the
 6 documents it wants copied and produced, the Producing Party must determine which
 7 documents, or portions thereof, qualify for protection under this Order. Then, before
 8 producing the specified documents, the Producing Party must affix the
 9 "CONFIDENTIAL legend" to each page that contains Protected Material. If only a
 10 portion or portions of the material on a page qualifies for protection, the Producing
 11 Party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate
 12 markings in the margins).

13 (b) for testimony given in depositions that the Designating Party
 14 identify the Disclosure or Discovery Material on the record, before the close of the
 15 deposition all protected testimony.

16 (c) for information produced in some form other than documentary
 17 and for any other tangible items, that the Producing Party affix in a prominent place
 18 on the exterior of the container or containers in which the information is stored the
 19 legend "CONFIDENTIAL." If only a portion or portions of the information
 20 warrants protection, the Producing Party, to the extent practicable, shall identify the
 21 protected portion(s).

22 5.3 Inadvertent Failures to Designate If timely corrected, an inadvertent
 23 failure to designate qualified information or items does not, standing alone, waive
 24 the Designating Party's right to secure protection under this Order for such material.
 25 Upon timely correction of a designation, the Receiving Party must make reasonable
 26 efforts to assure that the material is treated in accordance with the provisions of this
 27 Order.
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1 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

2 6.1 Timing of Challenges Any Party or Non-Party may challenge
3 designation of confidentiality at any time that is consistent with the Court's
4 Scheduling Order.

5 6.2 Meet and Confer The Challenging Party shall initiate the dispute
6 resolution process (and, if necessary, file a discovery motion) under Local Rule 37.1
7 et seq.

8 6.3 The burden of persuasion in any such challenge proceeding shall be on
9 the Designating Party. Frivolous challenges, and those made for an improper
10 purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other
11 parties) may expose the Challenging Party to sanctions. Unless the Designating
12 Party has waived or withdrawn the confidentiality designation, all parties shall
13 continue to afford the material in question the level of protection to which it is
14 entitled under the Producing Party's designation until the Court rules on the
15 challenge.

16 7. ACCESS TO AND USE OF PROTECTED MATERIAL

17 7.1 Basic Principles A Receiving Party may use Protected Material that is
18 disclosed or produced by another Party or by a Non-Party in connection with this
19 Action only for prosecuting, defending, or attempting to settle this Action. Such
20 Protected Material may be disclosed only to the categories of persons and under the
21 conditions described in this Order. When the Action has been terminated, a
22 Receiving Party must comply with the provisions of section 13 below (FINAL
23 DISPOSITION).

24 Protected Material must be stored and maintained by a Receiving Party at
25 allocation and in a secure manner that ensures that access is limited to the persons
26 authorized under this Order.

1 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
2 otherwise ordered by the court or permitted in writing by the Designating Party, a
3 Receiving Party may disclose any information or item designated
4 “CONFIDENTIAL” only to:

5 (a) the Receiving Party’s Outside Counsel of Record in this Action,
6 as well as employees of said Outside Counsel of Record to whom it is reasonably
7 necessary to disclose the information for this Action;

8 (b) the officers, directors, and employees (including House Counsel)
9 of the Receiving Party to whom disclosure is reasonably necessary for this Action;

10 (c) Experts (as defined in this Order) of the Receiving Party to whom
11 disclosure is reasonably necessary for this Action and who have signed the
12 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

13 (d) the Court and its personnel;

14 (e) court reporters and their staff;

15 (f) professional jury or trial consultants, mock jurors, and
16 Professional Vendors to whom disclosure is reasonably necessary for this Action and
17 who have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

18 (g) the author or recipient of a document containing the information
19 or a custodian or other person who otherwise possessed or knew the information;

20 (h) during their depositions, witnesses, and attorneys for witnesses, in
21 the Action to whom disclosure is reasonably necessary provided: (1) the deposing
22 party requests that the witness sign the form attached as Exhibit A hereto; and (2)
23 they will not be permitted to keep any confidential information unless they sign the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise
25 agreed by the Designating Party or ordered by the court. Pages of transcribed
26 deposition testimony or exhibits to depositions that reveal Protected Material maybe
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1 separately bound by the court reporter and may not be disclosed to anyone except as
2 permitted under this Stipulated Protective Order; and

3 (i) any mediator or settlement officer, and their supporting
4 personnel, mutually agreed upon by any of the parties engaged in settlement
5 discussions.

6 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN
7 OTHER LITIGATION

8 If a Party is served with a subpoena or a court order issued in other litigation
9 that compels disclosure of any information or items designated in this Action as
10 “CONFIDENTIAL,” that Party must:

11 (a) promptly notify in writing the Designating Party. Such
12 notification shall include a copy of the subpoena or court order;

13 (b) promptly notify in writing the party who caused the subpoena or
14 order to issue in the other litigation that some or all of the material covered by the
15 subpoena or order is subject to this Protective Order. Such notification shall include
16 a copy of this Stipulated Protective Order; and

17 (c) cooperate with respect to all reasonable procedures sought to be
18 pursued by the Designating Party whose Protected Material may be affected.

19 If the Designating Party timely seeks a protective order, the Party served with
20 the subpoena or court order shall not produce any information designated in this
21 action as “CONFIDENTIAL” before a determination by the court from which the
22 subpoena or order issued, unless the Party has obtained the Designating Party’s
23 permission. The Designating Party shall bear the burden and expense of seeking
24 protection in that court of its confidential material and nothing in these provisions
25 should be construed as authorizing or encouraging a Receiving Party in this Action
26 to disobey a lawful directive from another court.

9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
PRODUCED IN THIS LITIGATION

(a) The terms of this Order are applicable to information produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in connection with this litigation is protected by the remedies and relief provided by this Order. Nothing in these provisions should be construed as prohibiting a Non-Party from seeking additional protections.

(b) In the event that a Party is required, by a valid discovery request, to produce a Non-Party’s confidential information in its possession, and the Party is subject to an agreement with the Non-Party not to produce the Non-Party’s confidential information, then the Party shall:

(1) promptly notify in writing the Requesting Party and the Non-Party that some or all of the information requested is subject to a confidentiality agreement with a Non-Party;

(2) promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party’s confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

12. MISCELLANEOUS

12.1 Right to Further Relief Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

12.2 Right to Assert Other Objections By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this

1 Stipulated Protective Order. Similarly, no Party waives any right to object on any
 2 ground to use in evidence of any of the material covered by this Protective Order.

3 12.3 Filing Protected Material A Party that seeks to file under seal any
 4 Protected Material must comply with Civil Local Rule 79-5. Protected Material may
 5 only be filed under seal pursuant to a court order authorizing the sealing of the
 6 specific Protected Material at issue. If a Party's request to file Protected Material
 7 under seal is denied by the court, then the Receiving Party may file the information
 8 in the public record unless otherwise instructed by the court.

9 13. FINAL DISPOSITION

10 After the final disposition of this Action, as defined in paragraph 4, within 60
 11 days of a written request by the Designating Party, each Receiving Party must return
 12 all Protected Material to the Producing Party or destroy such material. As used in
 13 this subdivision, "all Protected Material" includes all copies, abstracts, compilations,
 14 summaries, and any other format reproducing or capturing any of the Protected
 15 Material. Whether the Protected Material is returned or destroyed, the Receiving
 16 Party must submit a written certification to the Producing Party (and, if not the same
 17 person or entity, to the Designating Party) by the 60 day deadline that (1)
 18 identifies(by category, where appropriate) all the Protected Material that was
 19 returned or destroyed and (2) affirms that the Receiving Party has not retained any
 20 copies, abstracts, compilations, summaries or any other format reproducing or
 21 capturing any of the Protected Material. Notwithstanding this provision, Counsel are
 22 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition,
 23 and hearing transcripts, legal memoranda, correspondence, deposition and trial
 24 exhibits, expert reports, attorney work product, and consultant and expert work
 25 product, even if such materials contain Protected Material. Any such archival copies
 26 that contain or constitute Protected Material remain subject to this Protective Order
 27 as set forth in Section 4 (DURATION).
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1 14. Any willful violation of this Order may be punished by civil or criminal
2 contempt proceedings, financial or evidentiary sanctions, reference to disciplinary
3 authorities, or other appropriate action at the discretion of the Court.

4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD:
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6 Dated: April 1, 2016

PILLSBURY WINTHROP SHAW
PITTMAN LLP

8 By: /s/ Christine A. Scheuneman
9 Christine A. Scheuneman

11 DISABILITY RIGHTS LEGAL
12 CENTER

13 By: /s/ Elizabeth Eubanks
14 Elizabeth Eubanks
15 Attorneys for Plaintiffs

16 Dated: April 1, 2016

HARBOTTLE LAW GROUP

18 By: /s/ S. Daniel Harbottle
19 S. Daniel Harbottle
20 Attorneys for District Defendants

22 Dated: April 1, 2016


CARPENTER ROTHANS &
DUMONT

24 By: /s/ Martin L. Carpenter
25 Martin L. Carpenter
26 Attorneys for Defendant Ana Petro
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1 **ATTESTATION:** The filer attests that concurrence in the filing of this document
2 has been obtained from the signatories thereto.
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7 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.
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9 DATED: April 4, 2016
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HON. MICHAEL R. WILNER
United States Magistrate Judge

1 EXHIBIT A2 ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

3 I, _____ [full name], of
 4 _____ [full address], declare under penalty of perjury that I have read
 5 in its entirety and understand the Stipulated Protective Order that was issued by the
 6 United States District Court for the Central District of California on [date] in the case
 7 of *J.V. v. Pomona Unified School District*, Case No. 2:15-cv-007895. I agree to
 8 comply with and to be bound by all the terms of this Stipulated Protective Order and
 9 I understand and acknowledge that failure to so comply could expose me to sanctions
 10 and punishment in the nature of contempt. I solemnly promise that I will not
 11 disclose in any manner any information or item that is subject to this Stipulated
 12 Protective Order to any person or entity except in strict compliance with the
 13 provisions of this Order.

14 I further agree to submit to the jurisdiction of the United States District Court
 15 for the Central District of California for the purpose of enforcing the terms of this
 16 Stipulated Protective Order, even if such enforcement proceedings occur after
 17 termination of this action. I hereby appoint _____ [full
 18 name] of _____ [full address and telephone
 19 number] as my California agent for service of process in connection with this action
 20 or any proceedings related to enforcement of this Stipulated Protective Order.

21 Date: _____

22 City and State where signed: _____

23 Printed name: _____

24 Signature: _____